

## Message

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**From:** Kazempoor, Kelly [kazempoor.kelly@epa.gov]  
**Sent:** 7/3/2019 6:43:25 PM  
**To:** AO OPA OMR CLIPS [AO\_OPA\_OMR\_CLIPS@epa.gov]  
**Subject:** Daily News Clips 7/3/19

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## Chemicals

### Bloomberg Environment

#### **Coal Ash Spills Pose Little Financial Risk, EPA, Firms Say (1)**

<https://news.bloombergenvironment.com/environment-and-energy/coal-ash-spills-pose-little-financial-risk-epa-industry-say>

**Sylvia Carignan**

Coal-powered electric utilities and the EPA agree that future coal ash spills don't pose enough financial risk to make new regulations necessary, an industry association said July 3.

Under federal Superfund law, the Environmental Protection Agency is required to regulate financial assurances for industries paying to clean up environmental disasters, relevant to the amount of risk tied to the hazardous substances they handle.

The agency proposed July 2 that the electric power industry doesn't need financial assurance requirements under federal law.

Financial assurances are typically statements by responsible parties, or other financial tools, proving that they have the financial resources to complete the cleanup work.

The proposal “fails to consider the risk that utilities may be unable to pay for the cleanup,” according to a news release from Earthjustice, an environmental law organization.

“It seems very clear to us that there is a real need for the coal-fired power generation industry to provide financial assurance, and make sure they can clean up their own messes,” said Lisa Hollowell, senior attorney for the Environmental Integrity Project.

The EPA acknowledges in its proposal that most environmental impacts from electric utilities come from the fuel sources used to generate power, including the heavy-metal-laden ash from burning coal.

Coal ash can affect public health and the environment if it is spilled into water bodies, especially drinking water supplies.

#### Catastrophic Releases

In 2010, the EPA considered past “catastrophic releases,” including a 2008 coal ash spill at the Tennessee Valley Authority’s Kingston plant, to justify choosing the electric power industry as a group that may need federal financial assurance regulations.

But, spills predating the agency’s 2015 coal ash management rule were taken out of the EPA’s consideration for new financial assurance regulations, because the 2015 rule was built to address those types of incidents, the July 2 proposal said.

“The safety factors that are imposed in the 2015 rule are designed expressly to ensure you’re not having the catastrophic releases that we saw,” said Jim Roewer, executive director of the Utility Solid Waste Activities Group in Washington.

The group’s members include about 80 utilities, the Edison Electric Institute, the American Gas Association, and other industry representatives.

Little would change for utilities if the EPA’s proposal is finalized, Roewer said. The EPA’s proposal will be open for public comment.

#### Regulatory Landscape

Facilities in the electric power industry are “subject to a wide range of environmental regulation and enforcement oversight,” the agency’s proposal said. States’ environmental regulations for the industry primarily focus on the management of air emissions and coal ash waste, it said.

The agency also identified state financial assurance programs that might be applicable to the same facilities in the industry. Those factors reduce the amount of risk the industry faces, leading the agency to its July 2 proposal.

“We agree with EPA’s assessment that the need for separate financial assurance requirements for the electric utility industry is not warranted, especially when you look at our track record of responding to these releases,” Roewer said.

Environmental groups, however, argue the industry needs stricter regulations as a result of past coal ash releases.

“We’ve seen now overwhelming evidence of the dangers of coal ash,” Hollowell said.

The EPA decided in 2017 that financial assurance regulations for the hardrock mining industry weren’t necessary. Mining companies said the rule duplicates existing financial assurances that states already require. Earthjustice is challenging that decision.

The EPA has yet to decide whether the chemical manufacturing industry and petroleum and coal products manufacturing industry need financial assurance regulations. The agency plans to release final decisions for those industries by the end of next year.

#### Rewriting Protections

The most prevalent environmental issue across the electric industry is groundwater contamination from coal ash ponds and landfills that don't have protective liners, or are leaking, the EPA said in its proposal.

The agency is revising its 2015 coal ash disposal rule, particularly groundwater protection standards and deadlines for closing down disposal sites, after environmental advocacy groups, including Earthjustice, challenged them in court.

"EPA believes the requirements in place and those to be implemented in the coming years sufficiently reduce the risk level at coal-fired power plants," the agency said in its proposal.

The EPA's 2018 changes to the 2015 rule gave coal-powered electric utilities and states more flexibility on deciding whether substances leaking from coal ash ponds and landfills have to be cleaned up. The agency is expected to release further changes this year.

Coal ash contains metals such as arsenic, chromium, and mercury. The waste is regulated primarily under the Resource Conservation and Recovery Act.

#### **The Washington Post**

##### **US won't impose rule to protect against coal ash spill costs**

[https://www.washingtonpost.com/national/energy-environment/us-wont-impose-rule-to-protect-against-coal-ash-spill-costs/2019/07/02/1e52c182-9d18-11e9-83e3-45fde8e8d2e\\_story.html?utm\\_term=.084485f48080](https://www.washingtonpost.com/national/energy-environment/us-wont-impose-rule-to-protect-against-coal-ash-spill-costs/2019/07/02/1e52c182-9d18-11e9-83e3-45fde8e8d2e_story.html?utm_term=.084485f48080)

**Matthew Brown | Associated Press 07/02/19 7:20PM**

BILLINGS, Mont. — The Trump administration said Tuesday that it won't require electric utilities to show they have money to clean up hazardous spills from power plants despite a history of toxic coal ash releases contaminating rivers and aquifers.

Environmental Protection Agency officials said Tuesday that modern industry practices and recently enacted regulations are sufficient to shield taxpayers from potential cleanup costs.

The finding comes after the EPA last year reversed a related proposal under President Barack Obama that would have imposed new financial requirements on the hardrock mining industry.

In both cases, industry lobbyists pushed back against requirements that could have meant higher costs for companies.

The Associated Press reported last year that major utilities across the nation have found evidence of groundwater contamination at landfills and ponds used for decades as dumping grounds for coal ash.

Heightened levels of pollutants — including arsenic and radium in some cases — were documented at plants in numerous states, from Virginia and Montana to Alaska.

Utilities and other companies in 2017 produced more than 111 million tons (101 million metric tons) of coal ash, primarily from burning the fuel for power generation, according to the American Coal Ash Association. Much of the ash is recycled or used for industrial purposes such as concrete additives, but huge volumes end up in long-term storage.

Coal ash disposal went largely unregulated until a 2008 spill at a Tennessee Valley Authority power plant in Kingston, Tennessee. A containment dike burst and flooding covered less than half a square mile (nearly 1.2 square kilometers), dumped waste into two nearby rivers, destroyed homes and brought national attention to the issue.

In 2014, an estimated 39,000 tons (35,380 metric tons) of coal ash spewed into the Dan River after a drainage pipe running below a waste dump collapsed at a Duke Energy plant in Eden, North Carolina. The toxic sludge turned the river gray for more than 70 miles (112 kilometers).

Those accidents helped spur new EPA regulations in 2015 that were intended to increase oversight of the industry.

Under Trump, the EPA is in the process of revising the 2015 coal ash rules. Attorney Lisa Evans with the environmental group Earthjustice said that could undermine efforts to protect against pollution.

"EPA tried hard to justify this reckless outcome, but its reasoning will make sense only to the coal industry," Evans said.

EPA officials did not respond to a request for an interview. They said in Tuesday's announcement that the new rules "have materially reduced risk" of future coal ash spills. The changes included additional monitoring requirements and new standards intended to prevent the failures of dikes that contain coal ash.

"EPA believes that the network of federal and state regulations creates a comprehensive framework that applies to prevent releases that could result in a need for future cleanup," the agency said.

Other pollutants from the power industry, such as PCBs and asbestos, are being addressed through separate regulations, EPA officials said.

Under a court order, the EPA has spent the past several years reviewing the extent to which the nation's most polluting industries cover cleanup costs.

#### **E&E News**

#### **PFAS bills on fast track, but supporters want more**

<https://www.eenews.net/eedaily/2019/06/28/stories/1060665799>

**Ariana Figueroa**

In an effort to pass legislation quickly to address toxic chemicals in drinking water, lawmakers are deploying multiple strategies to funnel money for cleanups and research, and attaching policy provisions to must-pass bills.

What actually makes it to the president's desk, however, remains uncertain, with leaders plotting different tactics.

The chemicals, per- and polyfluoroalkyl substances, or PFAS, were once used to make nonstick cookware, food packaging and firefighting foam often used in military bases.

The class of toxins known as "forever chemicals" are now linked to numerous health conditions, including cancer and thyroid issues, according to research from the Centers for Disease Control and Prevention.

A bipartisan group of lawmakers successfully attached several PFAS bills from the Environment and Public Works Committee onto the Senate's National Defense Authorization Act, S. 1790, which passed yesterday, 86-8 (E&E News PM, June 27).

"I think that's the fastest route to get it to the president's desk," said EPW Chairman John Barrasso (R-Wyo.), who championed the language with ranking member Tom Carper (D-Del.) and Sen. Shelley Moore Capito (D-W.Va.).

The PFAS amendments to the Pentagon bill would add the class of toxic chemicals to the list of contaminants tracked by the U.S. Geological Survey. They also would require EPA to set a drinking water standard.

The language calls on public utilities to test tap water for PFAS and the Department of Defense to phase out the use of firefighting foam containing PFAS by 2023, and would mandate manufacturers report any water or air discharges of the chemicals through the Toxics Release Inventory.

Still, Carper said he is disappointed language that he called "the most important" didn't make the cut.

It would have required EPA to designate PFAS as hazardous substances under the Superfund law, an issue that divides Senate Republicans and Democrats.

"The one way to make sure that there's actually a cleanup and it does not fall on local and state governments are that there is a listing [of PFAS] as hazardous substances that would trigger CERCLA," Carper said, referring to the Superfund law.

Barrasso acknowledged the friction between the two sides. "I know that Senator Carper's been focused on using Superfund money and we're still working that out, but we're not there yet," Barrasso said.

Capito shares this view and said more time is needed to discuss the proposal. "I don't think it was ready to be amended onto this bill," she said about putting Carper's proposal into the NDAA.

House package coming

In the House Rep. Paul Tonko (D-N.Y.) says he plans to introduce a PFAS package before the August recess (E&E Daily, May 7).

Tonko, chairman of the House Energy and Commerce Subcommittee on the Environment and Climate Change, said his panel isn't rushing to attach PFAS amendments to spending packages or other bills. Instead, it is working on garnering bipartisan support for the issue, he said.

"I know it affects all districts," he added. "I'm hoping we can talk through the strategy of contaminants related to PFOS, PFOA, PFAS."

Tonko may want to pursue major policy in a legislative package, but PFAS language has peppered fiscal 2020 spending bills.

One provision would provide \$60 million to clean up military base contamination. Another would require exposure assessments.

The House NDAA, H.R. 2500, includes language to test firefighters' blood and push the Pentagon to phase out the chemical in firefighting foam.

And in conference talks to marry each chamber's defense bills, backers of Capito-Barrasso-Carper language will be pushing for it to make it into law.

Several lawmakers have also introduced proposed amendments on PFAS to the House NDAA, up for debate in the coming weeks.

Rep. Debbie Dingell (D-Mich.), like Carper, is pushing language to list the chemicals as hazardous.

Rep. Darren Soto (D-Fla.) says he wants to use quantum computing to address exposure.

"It's continuing on with the movement we have in Energy and Commerce to regulate, isolate and eventually remove a lot of PFAS chemicals from different products," he said.

"I think the series of bills that we got through Energy and Commerce is a good start to what we're trying to do," Soto said. "We'll be looking for other opportunities, as well."

## **Reuters**

### **EPA got hazardous waste-transfer rule right this time, DC Circuit says**

<https://www.reuters.com/article/usa-epa-waste/epa-got-hazardous-waste-transfer-rule-right-this-time-dc-circuit-says-idUSL2N2431MV>

**Barbara Grzincic 07/2/19**

In a win for the Environmental Protection Agency and industry groups led by the American Petroleum Institute, a federal appeals court on Tuesday upheld a 2018 rule that eases the regulatory burden on companies that pay to have solid hazardous waste hauled away instead of discarding it themselves.

The U.S. Court of Appeals for the D.C. Circuit rejected claims by the Sierra Club, the Clean Air Council and six other environmental groups represented by Earthjustice, which argued that the 2018 rule drew an arbitrary distinction between hazardous substances depending on whether they were “discarded” or “transferred” for recycling or reclamation.

To read the full story on Westlaw Practitioner Insights, click here: [bit.ly/2LxgOOD](https://bit.ly/2LxgOOD)

## **The Intercept**

### **EPA Move to Phase Out Animal Experiments Could Mean the End of Toxics Regulation**

<https://theintercept.com/2019/07/03/epa-animal-testing-experiments-toxicity-regulation/>

**Sharon Lerner 07/03/19**

THE ENVIRONMENTAL PROTECTION AGENCY is moving forward with a plan to sharply reduce and ultimately phase out experimental testing on lab animals. In an undated internal memo sent in late June to assistant administrators, EPA chief Andrew Wheeler explained that the agency will cut its funding for experiments on mammals in half by 2025. The memo, which was reviewed by The Intercept, also said that the EPA plans to stop using mammal studies for the approval of new chemicals by 2035 and that it will aim to eliminate all mammal studies. Under the new plan, any animal study done after that point will require approval by the EPA administrator.

The EPA is promoting alternative methods to gauge the threats posed by chemicals, such as computer modeling and tests on cells, which have been increasingly used in recent years. Yet no legal limits have ever been set using these alternative methods alone. Without the tests on rats, mice, and rabbits currently used to gauge the toxicity of chemicals and set safe levels, public health and environmental advocates worry that the policy shift will leave EPA unable to limit chemicals at all. “It effectively will mean you can’t regulate,” said Jennifer Sass, a senior scientist at the Natural Resources Defense Council.

The internal announcement that EPA would speed the move away from animal testing coincided with the creation of a new section on the agency’s website that was published last week. Titled “Alternative Test Methods and Strategies to Reduce Vertebrate Animal Testing,” the newly released material details the EPA’s efforts to “reduce and replace testing on vertebrates.” On March 14, Wheeler signaled that he would be making the shift in a speech, broadcast internally to EPA staff, in which he described the animal testing issue as “important to me personally.”

The chemical industry also appears to care deeply about the reduction of animal research, according to emails of EPA staff released in June in response to a Freedom of Information Act request. The American Chemistry Council, the largest American trade group representing chemical manufacturers, has long supported reducing regulators’ reliance on animal research, which is time-consuming and expensive — in addition to being key to understanding the harms chemicals pose to people.

## **The End of Chemical Regulation**

A new generation of tests using cultured cells and computer simulation has expanded the ability to understand the risk compounds pose without using animals. Because it is not possible to perform animal tests for every one of the huge and

growing number of man-made chemicals, these techniques, which can be done more quickly and cheaply, have become increasingly important.

But many scientists who study chemicals caution that research on cells or tiny invertebrate creatures, known as “in vitro toxicology,” cannot completely replace mammal experiments yet. “If you take the engine out of a car and study one piston at a time, it may not tell you what the car is going to do when you assemble it,” said Thomas Zoeller, a biologist at the University of Massachusetts Amherst who studies the health effects of man-made chemicals like polychlorinated biphenyls.

Zoeller’s own research revealed that, within mice, it’s not the actual PCB that causes harm but another chemical that the body creates by processing the original compound — a discovery that wouldn’t have been possible without exposing live mice to the chemical. “The parent compound gets into the animal and is metabolized in some tissues, including the brain. The body essentially bioactivates the parent compound,” Zoeller explained.

“If you exclusively depend on in vitro toxicology or mathematical modeling, you’re going to miss all the different interactions that happen in a physiological system — whether in rat, mouse, human, or a fetus. You simply cannot replicate that,” said Zoeller. “EPA is well aware that these cells don’t replicate human metabolism. So when it comes to bioactivation, they’re going to miss all that — and they know that.”

And that, some scientists fear, is exactly the reason the EPA is moving toward eliminating tests on animals. “If you require that, to regulate, you need to show an adverse affect for a chemical, and you can’t see an adverse affect in cells, then it’s to your benefit to only do testing in cells,” said Laura Vandenberg, a professor at UMass Amherst’s School of Public Health, who studies how exposures to chemicals during the development affects health later in life. “Laws, policy, and regulations require animal evidence.”

While regulatory rules can be updated to reflect new methods, it’s not clear how non-animal experiments would ever lead to restrictions. With animal tests, the presence of a clear endpoint such as cancer or birth defects helps regulators calculate safe levels for humans. But a positive finding in a non-animal test will likely only lead to more research, according to NRDC’s Sass.

“Let’s say they do find a hazard in a chemical. Let’s say it triggers changes associated with cancer. They don’t then call it a carcinogen. They just prioritize it for further testing,” said Sass, who has a PhD in anatomy and cell biology. “Then they test it on higher level tests, then on higher level tests. So if it is something that’s toxic, we’ll still go through years and years of testing and arguing and fighting.”

### Now People Are the Guinea Pigs

In 2006, the EPA’s National Health and Environmental Effects Research Laboratory published a study showing that pregnant mice given the industrial chemical PFOA developed enlarged livers and had a greater chance of losing their pregnancies. The pups of the exposed mice weighed less and were developmentally delayed compared to the non-exposed pups, and the male pups had abnormal sexual development. While the EPA has yet to set a legal limit for PFOA, the agency used the mouse study to set a health advisory level for the chemical in 2009. And some states have used it to calculate their own regulations.

But since NHEERL did that groundbreaking work, the number of scientists leading animal research there has shrunk by more than half. The lab employed 56 principal investigators who conducted 139 active protocols involving animals in 2008, according to the EPA press office. This year, only 24 principal investigators were left, conducting 52 experiments involving lab animals. At another EPA lab focused on animal toxicology, the National Exposure Research Laboratory, the number of active protocols involving animals has dropped from 20 in 2008 to 13 in 2019. And neither lab will continue to exist after a planned reorganization of the Office of Research and Development is complete. Indeed, under the new structure, no labs that focus exclusively on animal research will remain. In his memo, Wheeler noted that 200,000 lab animals have already been spared from testing in recent years.

As Wheeler has embraced the adoption of new testing methods, the EPA has teamed up with animal rights groups such as PETA that oppose animal research because they see it as cruel. In April, the EPA co-sponsored a webinar on alternate methods of chemical assessment with PETA International Science Consortium and Physicians Committee for Responsible Medicine; the latter group is closely affiliated with the animal rights organization.

But it seems unlikely that the real issue for Wheeler, a former coal lobbyist reported to have invested in a burger restaurant, is animal welfare. Internal EPA communications point to the chemical industry's interest in the alliance with animal rights groups. In a July 2017 email to representatives of Dow Chemical, Exxon Mobil, Syngenta AG, the American Chemistry Council, PETA International, and the EPA, Michael Dourson — Trump's failed nominee to lead the EPA's chemical safety division — proposed an Institute of Predictive Safety Assessment that would bring PETA together with the industry to help shift the thinking on testing, as E&E News reported that year.

The recently released batch of emails included one sent three months later to Nancy Beck, who then ran the EPA's toxics office, and Dourson from Daland Juberg, who identified himself as heading human health science for DowDuPont. In it, Juberg inquired about the institute's progress. "Let's talk down the road on areas where EPA might have interest in moving the needle," Juberg wrote.

While animal rights activists have focused on the ethics of exposing innocent creatures to toxic substances, by allowing chemicals onto the market without first testing their safety, people have essentially become the guinea pigs. Residents of Wilmington, North Carolina, may feel that particularly acutely. After the chemical GenX was discovered in the Cape Fear River downstream from a factory owned first by DuPont and now its spinoff, Chemours, researchers tested the blood of people who have been drinking the water and found four PFAS chemicals that had never been publicly identified, let alone studied.

"Do they have health effects? Which of the chemicals we found in their blood are related to high cholesterol? Which cause elevated liver enzymes?" asked Jane Hoppin, deputy director of the Center for Human Health and the Environment at North Carolina State University, which is conducting the blood study. "These poor people have been drinking these chemicals for 40 years, and we have nothing to offer them."

With mysterious chemicals posing unknown harms within their own bodies, the people of Wilmington deserve more than cursory research, said Hoppin. "You can do a lot of quick testing in a petri dish," she said. "But to see what really happens, you need a mammal."

"Looking Forward to Collaborations!"

Beck, who directed regulatory science policy for the American Chemistry Council before Trump appointed her to run EPA's toxics office in 2017, exchanged emails about the use of alternative techniques to replace animal testing with several chemical company representatives, including Dennis Deziel, director of federal government affairs for Dow Chemical.

"Dow is a leader in non-animal testing methods," Deziel wrote to Beck in July 2017. "We want to engage on this issue in as helpful way as possible." Beck met with Deziel and other Dow staff a few weeks later, according to the emails. "Extremely helpful for us," Deziel wrote to Beck afterward.

Also at the meeting was Louis Scarano, an EPA toxicologist, who held at least one other meeting at which the issue was discussed with Deziel's colleague, Sue Marty, Dow Chemical's toxicology science director.

"I really appreciate your time and I enjoyed our conversation," Marty wrote in an email to Scarano after that meeting, which was in mid-August 2017. "I think we share similar views on how alternate approaches could be used in the TSCA program," she wrote, in a reference to the Toxic Substances Control Act, the primary federal law governing chemical regulation.



“Looking forward to collaborations!” the EPA’s Scarano responded. Scarano is now listed as the contact person for people seeking information on how the agency plans to reduce animal testing in TSCA as well as under other laws that involve chemical regulation.

Dow, it should be noted, is the maker of many chemicals that fall under the EPA’s purview and have been subject to animal testing, including chlorpyrifos, a pesticide linked to neurodevelopmental problems that the EPA found dangerous enough to ban in 2016; 1,3-butadiene, a chemical that a division of the EPA recently found — using animal testing — to cause cancer as well as reproductive and developmental problems; and ethylene oxide, another compound the EPA recently assessed. The EPA set the safety threshold for that chemical, which has caused elevated cancer risks in more than 50 places around the U.S., using studies showing ethylene oxide caused tumors of the brain, lung, connective tissue, uterus, and mammary glands of mice and rats.

Even before the recent industry push and policy shift at EPA, the federal regulation of chemicals had slowed to a near standstill. Only a small handful of the more than 40,000 chemicals now in use have been regulated. An overhaul of the 40-year-old Toxic Substances Control Act law in 2016 was supposed to finally fix that. The updated law gave the agency new authority to require testing. Since the Trump administration took office, however, the agency appears not to have taken advantage of its new powers.

“In the nearly 3 years since passage of TSCA reform, EPA has not once used these new authorities and seems to be avoiding them at all costs,” Democratic Senators Cory Booker, Tom Udall, Ed Markey, Jeff Merkley, and Sheldon Whitehouse wrote to EPA administrator Wheeler on June 20.

Meanwhile, the Trump administration has advanced another provision of the updated law: language that requires the EPA to rely on non-animal tests when they’re as good as or better than the animal research. The EPA’s materials detailing its shift away from animal testing repeatedly cite the directive. But as the senators pointed out in their letter, “The law’s vertebrate animal testing provisions in no way limit EPA’s testing authorities; they simply call for EPA to rely on methods not involving vertebrate animals where such methods can provide equivalent or better scientific quality and relevance than vertebrate tests.”

Nor does TSCA, only one of the laws under which EPA is authorized to conduct animal tests, explain why the new directive will affect research throughout the agency, including in its water and pesticide divisions. Nevertheless, according to Wheeler’s memo, work to finalize the shift away from animal testing will begin immediately.

## Air

### Bloomberg Environment

#### **Industry May Have to Wait on EPA Air-Permit Exemptions Guidance**

<https://news.bloombergenvironment.com/environment-and-energy/industry-may-have-to-wait-on-epa-air-permit-exemptions-guidance>

**Amena H. Saiyid**

Power plants, refineries, and factories may not know which routine repairs qualify for federal air permit exemptions this year because of the sudden departure of the EPA’s air chief, an agency official said.

The EPA had been expected this fall to release guidance that would allow it to expand the kinds of routine maintenance and repairs excluded from the Clean Air Act’s New Source Review permit requirements.

But the guidance’s release is now “up in the air,” Raj Rao, New Source Review group leader at the EPA’s Office of Air Quality Planning and Standards, told participants at last week’s Air & Waste Management Association meeting in Quebec City.

That's because Bill Wehrum, the EPA's assistant administrator for air and radiation and the force behind the agency's push to ease the permit program requirements, left the agency June 30, Rao said.

Routine maintenance could range from replacing a faulty inlet for a superheater to replacing mechanical devices used in boilers and refrigeration units to reduce energy consumption.

Under New Source Review, power plants and other industrial sites facilities are required to install updated pollution controls to protect air quality when they expand or make modifications that increases air pollution.

#### 'Very Controversial'

Because the issue has been the subject of lawsuits, and was the driving force behind the Environmental Protection Agency's enforcement actions against major electric utilities in the late 1990s, any new guidance issued for routine maintenance, repair and replacement would be "very controversial," Rao said.

Industries have long complained that securing compliance with the New Source Review permitting program is tedious, time-consuming, and confusing. Electric utilities, in particular, have faced EPA enforcement actions since the 1990s for making changes to their plants under the guise of routine maintenance to escape the permit obligations.

Environmental groups say industrial plant owners should install updated pollution controls if they replace aged equipment with newer and more efficient parts, and not use maintenance as an excuse for an exemption.

"Any so-called 'routine maintenance' guidance from the Trump EPA would mean unrestricted air pollution increases that evade controls," John Walke, clean air, climate and clean energy program director at the Natural Resources Defense Council, told Bloomberg Environment. "So EPA's rare retreat from this rollback is welcome news for air quality and Americans' health."

#### Industry Disappointed

Industries will be disappointed if some of the issues on which they sought clarity from the Trump administration don't move forward, Lynn Hutchinson, general counsel and senior project manager for Raleigh, N.C.-based RTP Environmental Associates Inc., told Bloomberg Environment.

Although a delay on the guidance "is not necessarily catastrophic," Hutchinson said, having it would allow the federal and state permitting process to run more smoothly, she said.

In its absence, though, the industry will continue to treat truly routine repairs like replacing a screw on a piece of equipment as exempt and subject those activities that fall in the gray areas to an emissions test to see whether New Source Review is triggered.

What companies don't want is to have the EPA second-guess them after they have reached an agreement with state regulators on how the activity should be classified, Hutchinson said.

#### Long Litigation History

When Wehrum served as counsel to the EPA air office under the George W. Bush administration, the agency released a 2003 rule that said routine maintenance projects below a certain cost threshold would be exempt from New Source Review.

But the U.S. Court of Appeals for the District of Columbia Circuit vacated that regulation in 2006 in *New York v. EPA*, which ruled that industries couldn't write off physical changes that cost below a certain amount as routine maintenance.

When Wehrum returned to the EPA in 2017 as the agency's top air official, he embarked on a plan to update the permit program through a combination of rulemaking and guidance documents, including one clarifying which projects and

activities would classify as routine maintenance. To date, the Trump administration's EPA has issued guidance for calculating emissions increases and aggregating projects.

The assistant administrator position is subject to Senate confirmation. Principal Deputy Assistant Administrator Anne Idsal has been given Wehrum's responsibilities as acting assistant administrator.

Walke said that "Idsal will pick up where Wehrum left off, until any signs to the contrary emerge."

But Rao said it's too early to say how the EPA air office will shuffle its priorities.

## **E&E News**

### **Pollution could rise at some power plants under ACE**

<https://www.eenews.net/climatewire/2019/07/03/stories/1060687761>

**Jean Chemnick**

Some communities could see pollution linked to respiratory and cardiovascular illness rise under EPA's new power plant carbon rule.

EPA's own analysts predict the Affordable Clean Energy (ACE) rule could cause certain power plants in states like Florida and Ohio to emit more pollution that directly harms human health than those plants would have released with no carbon constraints.

That's because the heat-rate efficiency improvements EPA asks states to consider requiring of their coal-fired power plants could in some cases lead facilities to run more frequently or for more years. That would trigger what analysts call a "rebound effect" that would increase the sulfur dioxide, nitrogen oxides and fine particulate matter the facilities belch into the atmosphere over their lifetimes.

"I think what this shows us is the ACE rule could actually be worse than doing nothing in some states," said Kathy Fallon Lambert, a senior adviser in the Center for Climate, Health and the Global Environment at Harvard University.

Lambert and her Harvard T.H. Chan School of Public Health colleagues are studying the results of EPA's modeling, in which the agency lays out its assumptions for how states and companies might put in place the ACE rule's requirements. ACE and its regulatory impact analysis, both released June 19, show Southeastern states like Florida and Georgia in particular could see an uptick in harmful pollution under the rule.

Take the Northside Generating Station in Duval County, Fla., owned by Jacksonville's public utility company, JEA. The six-unit plant runs on coal, gas and oil.

EPA's modeling suggests that two of its units could quadruple their output of sulfur dioxide compared with the business-as-usual scenario for 2025, releasing about 1,200 tons of SO<sub>2</sub> that year instead of 300 tons. The net effect would be a 300% increase in SO<sub>2</sub> from the generating station overall.

Duval County abuts Florida's Nassau County, which is out of attainment with EPA's 75-parts-per-million limit for SO<sub>2</sub> emissions. And while the Northside Generating Station would see Florida's most dramatic increase in SO<sub>2</sub> under EPA's modeling for the rule, it's not the only Sunshine State coal-fired power plant with emissions that could rise. Hillsborough County, which is out of attainment with the SO<sub>2</sub> standard already, and Orange County each has a power plant that would see its emissions rise by 2025 compared with a business-as-usual scenario, according to the modeling.

SO<sub>2</sub> is a precursor to fine particulate pollution, or PM<sub>2.5</sub>, which carries a host of health risks.

"And with PM<sub>2.5</sub> what we're worried about is that there's a large swath of health effects associated with it, ranging from premature death to respiratory disease, cardiovascular disease, stroke, and there's even emerging evidence of a link

with certain neurocognitive diseases," said Jonathan Buonocore, also of Harvard's Center for Climate, Health and the Global Environment.

EPA acknowledged the potential increase in pollution in the Southeast, but it pointed to decreases elsewhere.

"While the EPA expects areas in the southeastern U.S. to experience a modest increase in fine particle levels, areas including the Midwest will experience reduced levels of PM, yielding significant benefits in the form of fewer premature deaths and illnesses," the ACE rule says.

But EPA also appears to show in its regulatory impact analysis that the rule would drive increases in summertime ozone concentrations in certain states. Oklahoma, Ohio and other states could also see changes in harmful pollution concentrations.

On average across the country, EPA predicts so-called criteria pollutants like SO<sub>2</sub> and nitrogen oxides will fall under ACE. The rule's cost-benefit analysis points to the hundreds of millions of dollars in monetized health savings that would accrue from the ancillary benefits of reduced air pollution levels. Counting them allows EPA to show that the benefits of ACE outweigh its costs despite EPA's own low estimates for the value of carbon avoidance (Climatewire, July 1).

It's yet unclear how the substantial changes in dispatch or life expectancy for old, high-emitting coal plants hinted at in the ACE rule's modeling might square with permitting requirements. Some power plants might currently be emitting less than they're allowed to under their permits.

Last year's proposed version of the ACE rule would have changed Clean Air Act permitting requirements for power plants that are updated under the rule in a way that could have boosted their annual output of criteria pollutants. The proposed New Source Review tweak didn't survive in the final rule, though EPA has signaled it plans to move forward with a similar fix for a broader set of sources later this year.

In an email to E&E News, an EPA spokesperson noted that things may play out differently on the ground than the agency assumed in its modeling.

"States are afforded considerable flexibility in the final action, and thus the impacts could be different, to the extent states make different choices than those assumed in the illustrative analysis," the spokesperson said. "Operators of individual facilities and their state regulators may make different ACE compliance decisions than those assumed in EPA's analysis."

But Ann Weeks, senior counsel for the Clean Air Task Force, said the final rule appeared to mandate that states consider extending the life of old, dirty coal-fired power plants.

"My take on it is that the modeling that they're doing may be exposing the problems with the rule," she said. "They can't life-extend the plant in such a way that it will triple SO<sub>2</sub>, and to suggest that they can is arbitrary and capricious."

## **Elections**

### **E&E News**

#### **Kennedy blocking nominees over exemptions**

<https://www.eenews.net/eedaily/2019/06/28/stories/1060665941>

**Marc Heller**

Louisiana Republican Sen. John Kennedy said yesterday he's blocking three Agriculture Department nominees over Secretary Sonny Perdue's involvement in biofuel policy and won't relent until the secretary retreats.

At issue are the exemptions EPA grants small refineries from biofuel blending requirements in cases of economic hardship, a policy that has pit petroleum interests against the ethanol industry, pulling EPA into the middle.

Perdue, representing rural and farm interests, has publicly urged EPA to be less generous with the waivers.

The nominations of Scott Hutchins for undersecretary of agriculture for research, education and economics; Mindy Brashears for undersecretary for food safety; and Naomi Earp as assistant secretary are in limbo as a result.

But they've been on the job most of the year because Perdue appointed them to positions with the same functions but not requiring confirmation.

"Please be advised that I will end my efforts to block these nominees when the USDA ceases to be involved in all issues involving small refinery hardship waivers including the SRE application process," Kennedy wrote Perdue in a letter, referring to small refinery exemptions.

Kennedy went on to say he is "deeply troubled" by reports Perdue is trying to influence EPA's decisions on the exemptions, which the senator said runs afoul of the Clean Air Act. That law spells out that EPA holds authority over biofuel mandates and dictates policy on hardship exemptions.

Perdue's efforts threaten thousands of jobs and violate congressional intent, Kennedy said.

Yesterday's letter came a day after Kennedy and other lawmakers wrote to EPA Administrator Andrew Wheeler, urging him to resist calls from ethanol advocates to halt the exemptions.

The senator told Perdue he supports granting exemptions at the full level requested by refiners, rather than partial ones, and that volumes of ethanol waived shouldn't be assigned to other refiners — a step urged by the ethanol industry.

## **Energy**

### **Bloomberg Environment**

#### **Electric Industry Dodges New Superfund Cleanup Assurances**

<https://news.bloombergenvironment.com/environment-and-energy/electric-industry-dodges-new-superfund-cleanup-assurances>

**Brenna Goth**

The electric power industry doesn't need new rules from the EPA requiring companies to prove they can cover the costs of an environmental disaster from the hazardous substances those companies use, the agency announced July 2.

The Environmental Protection Agency's analysis stems from federal Superfund law that requires the agency to regulate which facilities must show they can pay to clean up harmful releases.

The EPA faces court-ordered deadlines to address the electric industry as well as the chemical manufacturing and petroleum and coal products manufacturing industries.

"By proposing no new financial requirements, we will be ensuring that no duplicative or unnecessary burdens fall on America's energy producers," EPA Administrator Andrew Wheeler said in a statement.

Rulemaking for the electric power industry must be completed by Dec. 2, 2020, according to a news release. The public can weigh in on the determination during a 60-day public comment period.

The EPA considered existing state and federal requirements for electric power generation, transmission, and distribution facilities. It also looked at the risks associated with the industry, including its handling of hazardous substances.

The agency had previously determined the hardrock mining industry doesn't need the financial assurance requirements.

### **The Washington Post**

#### **The Energy 202: Sixteen states could see spike in carbon emissions under Trump's power plan**

[https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2019/07/03/the-energy-202-sixteen-states-could-see-spike-in-carbon-emissions-under-trump-s-power-plan/5d1b7333a7a0a47d87c56f9c/?utm\\_term=.ad754283178f](https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2019/07/03/the-energy-202-sixteen-states-could-see-spike-in-carbon-emissions-under-trump-s-power-plan/5d1b7333a7a0a47d87c56f9c/?utm_term=.ad754283178f)

**Dino Grandoni 07/03/19**

Last month, the Trump administration took its most significant action to date in regulating power plants — one the agency said would reduce carbon emissions from the electricity sector by as much as a third nationwide by the end of the next decade compared to 2005.

There is an issue, though: Not every state is going to see a reduction in emissions. In fact, as many as 16 states could see an increase in the amount of carbon dioxide emissions blamed for causing the bulk of climate change.

That means those states will not only be individually contributing more to global warming by 2030, but they may have to contend with increased local air pollution from coal-fired plants that may have otherwise cut back on production had the Obama administration's regulations been implemented.

President Trump's Affordable Clean Energy rule, finalized by the Environmental Protection Agency in June, is the administration's biggest swing at rolling back federal climate regulations the previous administration tried to put in place.

That means that under the Trump replacement to the Obama-era Clean Power Plan, the EPA expects a total of 16 states, plus the District of Columbia, to see a spike in carbon dioxide emissions compared to a business-as-usual scenario in which the federal government took no action, according to an analysis of agency data done by the advocacy group Environmental Defense Fund.

Put another way: About one in five coal-fired power plants will actually see an increase in carbon emissions under a Trump administration rule meant to reduce carbon emissions, according to Resources for the Future, a Washington-based think tank that studies environmental policy.

"The surprising thing about this result is its inconsistency with the goals of the regulation itself," said Amelia Keyes, a research assistant at Resources for the Future.

The consequences go beyond climate change. A total of 20 states, as well as the District, are expected to see increases in emissions of sulfur dioxide or nitrogen oxides relative to the business-as-usual scenario, according to EDF. Both pollutants are precursors to the formation of smog, which contributes to a host of heart and lung problems.

Unlike the Clean Power Plan, which never took effect because of a Supreme Court decision, the Trump administration is not setting specific emissions cuts state by state in a way that would force utilities to switch from coal to lower-carbon sources of energy. Instead, the EPA is leaving it up to state regulators to improve the efficiency of coal-fired power — that is, to get more electricity for every pound of coal burned rather than closing coal plants entirely.

The lack of mandatory emissions cuts for states led some administration critics to say the EPA's numbers are overly optimistic. "They have adopted assumptions that are highly self-serving," said Andres Restrepo, a staff attorney at the Sierra Club.

Even without regulation, market forces have eaten into coal's share of the electricity sector as the coal business struggles to compete with cheaper and lower-carbon energy sources.

So why should making coal-fired power more efficient lead to higher carbon emissions in some states but not others? The answer depends a lot on other electricity options with which coal is competing.

When coal plants invest in energy-efficiency improvements, they are able to produce electricity more cheaply. That, in turn, delays their closure and, in some cases, displaces lower-carbon energy sources that would have otherwise taken its market share.

In Minnesota, Oklahoma and South Carolina, for example, energy-efficiency improvements at coal plants are projected to make their electricity cheap enough to displace natural-gas generation. Coal-fired power in Florida and Georgia is projected to displace renewable generation in those two states as well.

As a result, carbon pollution is expected to increase from all five states.

"These maps really illustrate a perverse side effect of this system that EPA is basing its replacement of the Clean Power Plan on," said Tomás Carbonell, EDF's director of regulatory policy and lead attorney.

The math works out differently in other states. In Texas, for example, improvements at coal plants will displace some natural-gas power, but the energy-efficiency gains at coal plants are expected to lead to an overall decrease in carbon emissions from the state.

Both the Trump and Obama administrations' plans aimed to cut carbon emissions from the power sector by about a third by 2030.

But that is far less than what is necessary to keep global average temperatures from rising above 2 degrees Celsius. According to the International Energy Agency, the U.S. electricity sector would need to cut its emissions 74 percent to reach that goal.

## POWER PLAYS

### Trump's \$2.5 million July Fourth event

— Using park money to pay for Trump's July Fourth extravaganza: The National Park Service is diverting \$2.5 million from park entrance and recreation fees – money normally used to improve the nation's parks – to fund the president's expanded Independence Day celebration, The Post's Juliet Eilperin, Josh Dawsey and Dan Lamothe report. "By tapping entrance fees to cover the presidential event, Interior is siphoning money that is typically used to enhance the visitor experience either on the Mall or at smaller parks across the country, with projects ranging from road and bridge repair to habitat restoration," they write. "The transfer amounts to nearly 5 percent of the funds that less-profitable parks used last year for upgrades, according to budget documents." National Parks Conservation Association president and CEO Theresa Pierno called it a "breach of trust with the public." The diverted fees are also just a fraction of the extra costs associated with the expanded celebration.

— House panel wants information about Puerto Rico response: Democrats on the House Oversight Committee sent a letter to the White House demanding it provide documents related to how the administration handled the 2017 hurricanes in Puerto Rico. Every Democratic member of the committee also previously signed a letter sent to the White House in May calling for "all communications about Puerto Rico before and after Hurricane Maria hit, killing thousands of people and devastating the island's infrastructure," The Post's Colby Itkowitz reports. In the new letter, Rep. Elijah E. Cummings (D-Md.), chairman of the Oversight Committee, and Rep. Harley Rouda (D-Calif.), chairman of the subcommittee on environment, are threatening "compulsory" action if the White House doesn't respond by next Wednesday. "The President's public defiance of all congressional oversight not only obstructs us from fulfilling our responsibility under the Constitution to conduct credible oversight, but it also insults the memory of the Americans who lost their lives as a result of this disaster," the pair wrote.

Oregon Gov. Kate Brown speaks with the media at the Capitol in Salem, Ore. (Sarah Zimmerman/AP)

— “Let me be clear, I am not backing down”: Oregon Gov. Kate Brown (D) is promising action on climate change even after a controversial cap-and-trade bill was buried by lawmakers after a week-long stalemate. “Brown said she was still looking for lawmakers to reach a compromise and pass a bill akin to House Bill 2020 in a future session, but she said she would use her executive authority if lawmakers can’t get there,” the Oregonian reports. “Brown does have some discretion to take action through her agencies, experts say, though the scope of those are unlikely to match the ambition of the legislation. She could direct the Department of Environmental Quality, for example, to tighten existing regulation of stationary sources of pollution, including industrial companies and utilities. She might be able to beef up building codes.”

— Right-wing think tanks vs. automakers: Newly released communications show how a coalition of groups that dispute mainstream climate consensus sought to label auto manufacturers as adversaries in the administration’s efforts to roll back fuel economy rules, the New York Times reports. In one such email, a member of free-market think tank Competitive Enterprise Institute wrote to supporters and an EPA official: “The automakers are not going to help and may be part of the opposition” and urged the Trump administration to move forward with rolling back the Obama-era emissions standards. “The correspondence, released by the Environmental Protection Agency to the Sierra Club under a public records request, underscores the rising influence of climate denialist groups, which jumped from the fringe to the mainstream in the Trump administration and now hold sway in federal policymaking,” the report adds.

#### THERMOMETER

— The impact of extreme weather, as seen from space: The struggles Midwestern farmers have faced this year as a result of extreme rains can be visualized from space, with the Midwest looking more like a brown belt than a stretch of green showing thriving crops from North Dakota to Ohio. “Unplanted, drowned or late fields have two things in common: They look brown from space, and they mean farmers will probably harvest less corn and soybeans this year than they had planned,” The Post’s John Muyskens, Laris Karklis, Andrew Van Dam write in this deep look that includes satellite images comparing what previous years looked like in the region.

#### OIL CHECK

— Saudi Aramco watch: After putting plans on hold, Saudi Arabia is reviving preparations for an initial public offering for the state oil company Aramco, Bloomberg News reports. “Aramco, the world’s most profitable company, recently held talks with a select group of investment banks to discuss potential roles on the offering,” per the report. “The revived IPO plan will still face significant hurdles, including the ability of the kingdom to achieve the \$2 trillion valuation it’s been seeking for the company. Demand for the share sale would also likely be affected by lower oil prices as well as growing concerns among top institutional investors about pouring money into fossil-fuel companies that contribute to climate change.”

#### EXTRA MILEAGE

— A long walk for an arctic fox: Scientists say that an arctic fox wearing a tracker walked from the Norwegian island of Spitsbergen all the way to Canada, walking an average of 30 and up to 100 miles a day. “The fox these researchers followed stood out for just how fast it covered more than 2,700 miles — and shed light on far-north fox sightings that explorers wondered about as far back as the 1800s,” The Post’s Hannah Knowles reports.

## Mines

### Bloomberg Environment



## **Alaskan Gold Mine May Get Boost as EPA Intervenes on Permit (1)**

<https://news.bloombergenvironment.com/environment-and-energy/alaskan-gold-mine-gets-boost-as-trumps-epa-intervenes-on-permit>

**Stephen Lee**

The EPA has moved to ensure it has a role negotiating the terms of any permit for the massive Pebble Mine planned near Alaska's Bristol Bay, a move that may bolster the mine's chances of securing approvals.

The Environmental Protection Agency's action comes as the U.S. Army Corps of Engineers evaluates how the proposed gold, copper, and molybdenum mine would affect the region's water, land, and thriving salmon fishery. In comments filed with the Army Corps, the EPA invoked a provision in a federal clean-water law that would allow top officials from both agencies to work out disagreements over a potential mine permit.

The EPA last week decided to resume consideration of proposed water pollution restrictions that threatened the project since the Obama administration outlined the restrictions in 2014.

The EPA's continued involvement could be welcomed by supporters of the mine, developer Pebble LP and its parent company, Northern Dynasty Minerals Ltd.

However, the EPA stressed that its action should not be viewed as a decision on the project or what to do about those five-year-old proposed restrictions. Regional EPA officials are coordinating with the Army Corps "to ensure that the EPA can continue to work with the Corps to address concerns raised during the permitting process," the agency said in letters and formal comments made public July 2.

Under another administration, the EPA's intervention might signal the agency's desire to prod the Army Corps into rejecting a permit, said Taryn Kiekow Heimer, a senior advocate at the Natural Resources Defense Council. Now that President Donald Trump's EPA is reconsidering the 2014 restrictions, the opposite outcome is possible, she said.

### **EPA Take on Impacts**

The EPA previously told the Army Corps it believed the proposed mine poses a "substantial and unacceptable" impact on an "aquatic resource of national importance"—a legal threshold for the agency's continued involvement.

The EPA had also criticized the Army Corps' draft environmental impact statement on the project, saying it "appears to lack certain critical information about the proposed project" and "likely underestimates impacts and risks." The EPA said it had "concerns regarding the extent and magnitude of the substantial proposed impacts to streams, wetlands, and other aquatic resources that may result" from the project.

EPA General Counsel Matthew Leopold previously said the consultation procedure was needed "to align the EPA with the Army Corps process to ensure all potential significant impacts to the environment are thoroughly vetted and raised before any final decision on the permit can be reached."

Developers—who have spent millions lobbying on behalf of the project—say the mine would tap a massive gold and copper resource. But the project is located in an area that drains into Bristol Bay, home to the world's most productive wild salmon fishery, raising concerns about its potential environmental and commercial costs.

Project critics have said the Army Corps' analysis takes a narrow view of its potential impacts, failing to consider the collective damage from potential leaks and spills at the site.

### **Fishers and Former EPA Chiefs**

Conservationists, local activists, and fishing operations warned the Army Corps the mine could jeopardize the region's salmon and a flourishing fishery with a catch that topped \$281 million last year.

Some high-profile opposition to the mine came in a joint letter from three former Republican EPA chiefs—William Ruckelshaus of the Nixon and Reagan administrations, William Reilly of the George H.W. Bush administration, and Christine Todd Whitman of the George W. Bush administration—as well as former Interior Secretary Bruce Babbitt of the Clinton administration.

The four ex-officials wrote that they “oppose the Trump administration’s efforts to sweep nearly a decade of science and Clean Water Act review under the rug.”

Another prominent critic was Richard Borden, former head of environment at mining company Rio Tinto’s copper, diamonds, and coal groups, whom the NRDC has spotlighted because of his mining expertise and his long career as a staunch advocate of mining.

In a series of docket comments, Borden called Pebble “fatally flawed” and said that, based on his more than 30 years of experience, the Pebble draft environmental impact statement “does not even meet industry standard practice.”

#### Miner Challenges Objectivity

Sean Magee, a spokesman at Pebble owner Hunter Dickinson Inc., said in April that the NRDC paid Borden to study the project, diluting his findings. That renders his findings “considerably less than objective or independent,” Magee told Bloomberg Environment.

“The Pebble Mine project is the largest, most complex, and riskiest resource project proposed in Alaska,” said McKie Campbell, a former deputy commissioner of the state’s Department of Fish and Game.

“In spite of this, it is being evaluated with the most flawed and rushed environmental impact statement that I have ever been aware of.”

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(Updated with new reporting in paragraphs 13-17.)

#### Associated Press

##### **EPA official cites concerns with Pebble Mine review**

<https://www.apnews.com/bc852836cfc94270abe9d4e495108a8e>

##### **Becky Bohrer**

JUNEAU, Alaska (AP) — A draft review of a proposed mine in Alaska’s Bristol Bay region likely underestimates impacts the project could have on fish and other resources, a regional official with the U.S. Environmental Protection Agency said.

In written comments dated Monday but released Tuesday, Chris Hladick said the draft environmental review appears to lack critical information needed to more fully evaluate the proposed Pebble Mine.

The EPA has said Bristol Bay produces about half the world’s sockeye salmon.

Hladick submitted letters and the agency’s more detailed comments to the U.S. Army Corps of Engineers, which is reviewing the Pebble Limited Partnership’s permit application for the proposed copper and gold mine in southwest Alaska. The comment period on the draft environmental review and application closed Monday. The Pebble partnership is owned by Canada-based Northern Dynasty Minerals Ltd.

Mine opponents have criticized the corps’ review as flawed. Mike Heatwole, a Pebble spokesman, said Monday the corps has done a “credible, transparent job.”

In a statement Tuesday, Heatwole said the Pebble partnership is pleased that EPA put “thought and consideration” into its comments and looks forward to continuing to work through the process.

“The Corps has stated that in their view the project can be developed without harming the Bristol Bay fishery,” he said.

The corps’ Shane McCoy told reporters earlier this year the analysis so far had concluded the mine would have no long-term impact on the health of the commercial fisheries. He said submitted comments could help further inform the corps’ analysis.

The EPA, in its comments, said the productivity of the Bristol Bay fisheries is tied to a diversity of habitat. Losing and degrading the fish habitats and populations “would erode the genetic diversity that is crucial to the stability of the overall Bristol Bay salmon fisheries,” it said.

Daniel Cheyette, a vice president with Bristol Bay Native Corp., said the corporation, EPA and others have found Pebble’s permit application and the draft review to be inadequate.

“In short, the process has confirmed what the people of Bristol Bay have known all along: The proposed Pebble Mine is a risk to the region and should not be constructed,” he said in a statement.

The EPA under the Obama administration proposed restrictions on development in the Bristol Bay region, arguing in 2014 that even the smallest mine size it analyzed could result in “significant and unacceptable adverse effects” on streams, wetlands, lakes and ponds that support local fisheries. Heatwole said that analysis was based on hypothetical scenarios. The proposed restrictions were never finalized.

The agency, as part of a legal settlement with the Pebble partnership in 2017, said it would initiate a process for withdrawing the proposed restrictions. Early last year, it halted that effort, with then-EPA Administrator Scott Pruitt saying more information was needed.

EPA last week released a memo from its general counsel, Matthew Leopold, who recently visited the Bristol Bay region. Leopold called for Hladick to resume consideration of whether to withdraw the proposed restrictions, a move mine opponents saw as a slap in the face. Leopold described making a decision one way or another as providing clarity on the issue.

Pebble opponents have been leaning on Alaska’s congressional delegation — and namely Republican U.S. Sen. Lisa Murkowski — to intervene in the process.

Murkowski last week urged the EPA to make known to the corps any concerns it has about the project.

“I continue to reserve judgment about the Pebble mine and am closely following the permitting process to determine whether it can avoid harming Bristol Bay’s world-class fishery,” she said in a statement.

## **Water**

### **Bloomberg Environment**

#### **EPA’s Slaughterhouse Pollution Rules Likely to Draw Lawsuit**

<https://news.bloombergenvironment.com/environment-and-energy/epas-slaughterhouse-pollution-rules-likely-to-draw-lawsuit>

**David Schultz**

A group of environmental organizations is planning on suing the EPA later this year over what they say is the agency’s failure to update its water pollution standards for slaughterhouses.

The coalition of six groups sent a letter July 2 to the agency informing it that they intend to file suit within 60 days unless the standards are revised before then.

The groups say the Clean Water Act requires the Environmental Protection Agency to reexamine its pollution standards for slaughterhouses annually. The standards lay out exactly what the businesses must do to mitigate the wastewater they generate.

The EPA hasn't updated its slaughterhouse standards since 2004 and hasn't reexamined them since 2016, according to the groups.

The groups involved in this action are the Animal Legal Defense Fund, Center for Biological Diversity, Environment America, Food & Water Watch, Waterkeeper Alliance, and Waterkeepers Chesapeake. They are being represented by attorneys from the groups Earthjustice and the Environmental Integrity Project.

The EPA didn't immediately respond to a request for comment.